

**CITY/COUNTY ASSOCIATION OF GOVERNMENTS
LEGISLATIVE COMMITTEE**

**MINUTES
MEETING OF JUNE 8, 2006**

At 5:10 p.m. Chairwoman Deborah Gordon called the meeting to order in the Second Floor Auditorium at the San Mateo Transit District Office. A quorum was attained at 5:25 p.m.

Members Attending: Chairwoman Deborah Gordon, Vice Chair Tom Kasten, Irene O'Connell, and Jim Vreeland.

Staff/ Guests Attending: Foster City Councilwoman Pam Frisella (representing Linda Koelling), Ross Nakasone (County Manager's Office), David Burruto (Assemblyman Leland Yee's Office), Richard Napier (C/CAG Executive Director), Walter Martone (C/CAG Staff), Brisbane Councilwoman Sepi Richardson (C/CAG Board Member), Jessica Sanfill (Assemblyman Mullin's Office), Brian Lee (County Public Works), Wes Lujan and Chuck Cole (Advocation), Jim Granucci (C/CAG AVA Coordinator), and Juliet E. Cox (Goldfarb & Lipman Attorneys).

1. Public comment on items not on the agenda.

- None.

2. Approval of minutes from May 11, 2006.

Motion: To approve the minutes as presented. O'Connell/Kasten, unanimous.

3. Briefing on Eminent Domain

Juliet E. Cox from Goldfarb & Lipman Attorneys provided the briefing:

- a) Ms. Cox provided the Committee with a handout that summarized the major legislative reforms to eminent domain that are currently pending and also a ballot initiative that has been submitted for qualification.
- b) Legislative Committee Member Judith Christensen also provided some materials that were mailed out in advance to the Committee members.
- c) Most of the reforms are in response to the Supreme Court ruling last summer in the case involving the State of Connecticut (*Kelo v. City of New London*). The Court said that the Federal Constitution did not prohibit local governments from defining "public use" for the purposes of using eminent domain, as the "economic development" of an area. That decision did not change California law, which is more restrictive than Connecticut law.
- d) The California Legislative proposals however, are attempting to address perceived issues of unfairness to the property owner. All of these proposals are to restrict the circumstances under which a local government can use eminent domain.
- e) California law currently requires the local government board to have a two-thirds majority vote before eminent domain is utilized.
- f) A redevelopment agency can only use the eminent domain power if it is provided in a redevelopment plan. The Plan also states how long the power is in effect. Some of the legislative proposals are to restrict or limit the time period that eminent domain power is available to a redevelopment agency.

- g) Another legislative proposal is to put limitations on the use of eminent domain for the taking of owner-occupied residential property. Generally it is more common that eminent domain is used for the taking of small business property and not owner-occupied residential property.
- h) SB 53 requires the redevelopment plan to be specific about the conditions under which eminent domain can be used. Any changes to these provisions would require that the plan be amended.
- i) California law (and Connecticut law) allows for the use of eminent domain to take property for economic development purposes. Therefore the Supreme Court ruling did not really change the law. It did however bring it to the public's attention that this power already exists. There is widespread perception that eminent domain is only to be used for more typical public works projects.
- j) SB 1206 would place greater restrictions on the definition of "blight" and thereby limit the circumstances under which a redevelopment agency can declare blight and require the sale of property.
- k) SB 1210 would require that the finding of "blight" be reconfirmed if the redevelopment plan is to be extended beyond twelve years.
- l) SB 1809 requires that recorded documents include specific information about the property if it is located in a redevelopment area, so that researchers can see what potential plans there may be for the property.
- m) AB 1162 is a moratorium on owner-occupied property. This bill may no longer have relevance if some of the other measures become enacted or the voters approve an Initiative.
- n) There is a Federal budget bill passed last year that prohibited the use of Federal funds for condemnation and acquisition of property for economic development purposes. And there is a bill current in the Senate that would extend the prohibition.
- o) SB 1650 addresses situations where a jurisdiction takes property and then changes its mind about the use of the property. It requires that a Resolution be adopted finding that the property is also necessary for this additional use. If not, they must offer the property back to the original owner at the current value, unless the owner was low income. Then the price would be closer to the original purchase price. If the owner does not want it back, it must be sold as surplus. There does not appear to be any timeline on this new local government obligation.
- p) The "Anderson Initiative" appears likely that it will qualify for the November ballot. Some of its language does not relate to current California law or practices. Therefore it will be very difficult to interpret and apply. It also includes provisions that would significantly rebalance property rights. It prohibits the taking of property that would then be made available for private use and not for public use. These uses will likely have to be worked out through Legislative action and resolution in the Courts. It requires compensation to property owners, whose property values are diminished because of the down zoning of property, limiting access to property, and limiting air space over property. It therefore requires compensation to a property owner if they can show that a jurisdiction's land use decision has or might in the future cost them money. Neighboring property owners that have increases in the value of their property due to the same decision, are not required to pay anything to the one that loses value. This Initiative will make null and void all unpublished Court opinions and orders. Most eminent domain cases are settled in trial court, and these courts do not publish decisions. The compensation due to property owners would also require that future dedication requirements (to improve access to the property for example) not be included in the

calculations of the price. The government would also be required to compensate the property owner at the highest potential value of the property, even if that use of the property is not available to the private owner.

- q) The Legislature is considering placing a competing measure on the ballot that would hopefully avoid many of the unintended consequences of the Anderson Initiative.
- r) This Initiative may wind up being challenged in the courts under the “single subject” rule because it is so broad and contains so many different components. It is unlikely that it could be challenged as unconstitutional because the California voters are within their right to vote in a constitutional change that limits the powers of local governments.

4. Briefing from C/CAG’s Lobbyist in Sacramento (in person).

Wes Lujan and Chuck Cole reported:

- a) The State budget may be adopted by the deadline for the first time in 17 years.
- b) There is a projected \$5 billion in additional revenue from personal income tax, sales tax, and gasoline tax. This has enabled the Administration to pay back the funds that it borrowed from the schools last year.
- c) Personal income tax accounts for \$.53 of each general fund dollar, \$.28 comes from the sales tax, and \$.10 from corporation taxes.
- d) \$.53 of each dollar is spent on education, \$.29 is spent on health and human services, and \$.08 is spent on corrections.
- e) About \$35 billion in four new bonds have been approved for submission to the voters in the November election. The failure of the recent library bond appears to bode poorly for the passage of additional bonds in November. Even though there was no opposition to this bond, it appears that the voters were tired of elections in general, and with the advent of the computer, libraries are no longer viewed in the same way. The turnout for the elections was extremely low, again showing the apathy of the voters.
- f) There will be about 41 new faces in the Legislature as a result of term limits. However a number of these individuals will not be new to the political scene. Some Assemblypersons will be moving to the Senate and vice-versa, and some retirees will be returning.
- g) The race for the Governor’s Office is likely to be the most expensive in history. The other Constitutional Offices will also be hard fought.
- h) Included in the package of bonds for the November election, is \$300 million for stormwater flood management. Hopefully C/CAG and San Mateo County jurisdictions will qualify for some of these funds.
- i) ACA 13 carried by Assemblyman Harman, now Senator-Elect does not appear to be moving. Senator Harman was hammered by his opponents on this bill during the election (he only won by slightly over 200 votes), and he was counting on support from the Governor’s Office for this bill, which never really materialized. It is expected that the Governor will highlight his environmental stands in the election as a way to attract cross voters. This may bode well for gaining his support for ACA 13 or a similar bill. However the Howard Jarvis group remains opposed to the stormwater component of the bill. They appear to be softer on the flood management component because of the strong public support for addressing this issue. This could cause the Governor to continue to withhold his support for ACA 13.
- j) The Speaker’s bill on telecommunications reform passed overwhelmingly. Advocation represented C/CAG’s interests and testified against the bill. There is a great deal of political momentum on this issue. Hopefully the Senate will have a more reasonable

approach to this reform. Finally, if this bill makes it to the Governor's Desk, it is hoped that he will remember his partnership with local jurisdictions, and veto the bill.

- k) AB 1546 (C/CAG's Vehicle Registration Fee) will be sun setting soon. Senator Simitian has introduced SB 1611 to allow Congestion Management Agencies to levy a \$25 Vehicle Registration Fee subject to a majority vote of the public.
- l) AB 2538 provides for an increase in Program, Planning, and Monitoring funds for Congestion Management Agencies. This could result in an annual increase of \$400,000 in planning funds for C/CAG. The bill passed overwhelmingly in the Assembly.
- m) It is expected that the Governor will propose paying back the education loan with a portion of the \$5 billion in new revenue projected for the 06-07 budget. This should help with the passage of the entire budget on schedule this year.
- n) The Governor appears to be reaching out to individual labor unions for support in the November election.
- o) The \$35 billion bond package is a multi year program. In the first year \$19.5 billion is proposed.
- p) Advocation will be watching the introduction of trailer bills for the bonds in order to introduce language to make it more favorable for San Mateo County to secure bond funds.

5. Review and approval of the Monthly Update on Pending Legislation.

The deadline recently passed for bills to get out of their house of origin. Therefore a number of the bills listed in the report are now Dead.

6. Consideration of positions on various bills:

- c) SB 1225 – increase the Vehicle Registration Fee for the Abandoned Vehicle Abatement (AVA) Program: Jim Granucci presented this bill and recommended support.

Motion: To recommend that the C/CAG Board support SB 1225. O'Connell/Kasten, unanimous.

- a) SB 1059 – Transmission Line Corridors: This bill as it was originally written, removed land use authority from local jurisdictions as it relates to the siting of transmission lines. The League of California Cities has successfully negotiated amendments to the bill to eliminate the provisions that compromise local land use authority. The League has therefore removed its opposition to the bill and recommends that its local jurisdiction members follow suit as a show of support for the willingness of the bill's author to address the issues of concern noted.
- b) Telecommunications Reform: Staff presented a package of State and Federal bills for consideration. It was noted that the Senator McCain bill has not yet been introduced; therefore it does not seem to be prudent to take a position on it at this time.

*Motion: To recommend the following positions to the C/CAG Board.
SB 1059 – Remove Opposition, S 2686 – Oppose, HR 5417 – Support, Senator McCain bill – Watch, AB 2987 – Continue Opposition, SB 1627 – Oppose. O'Connell/Kasten, unanimous.*

7. Establish date and time for next meeting (August 10, 2006 at 5:00 p.m.).

The July C/CAG meeting has been canceled and the Legislature will likely be in recess by the July 13th normally scheduled date for Legislative Committee.

8. Other items/Comments from Guests.

None.

9. Adjournment.

The meeting was adjourned at 6:50 p.m.